

HON. RONALD B. LEIGHTON



07-CV-05365-CNST

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CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PUGET SOUNDKEEPER ALLIANCE, )

Plaintiff, )

v. )

TAYLOR EQUIPMENT AND MACHINE )  
TOOL CORPORATION, )

Defendant. )

No. 3:07-CV-05365-RBL

CONSENT DECREE

WHEREAS, Plaintiff Puget Soundkeeper Alliance filed a Complaint against Defendant Taylor Equipment and Machine Tool Corporation on July 23, 2007, alleging violations of the Clean Water Act, 33 U.S.C. § 1251 et seq., relating to discharges of stormwater from Defendant's facility located in Tacoma, Washington, seeking declaratory and injunctive relief, civil penalties and attorneys fees and costs;

WHEREAS, Defendant denies Plaintiff's claims and any liability for the alleged violations; and

WHEREAS, counsel for the parties to this action have engaged in discussions relating to

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SEATTLE, WASHINGTON 98112  
(206) 860-2883

1 the potential settlement of this litigation, which discussions have included an assessment of the  
2 facts surrounding the alleged violations; and

3 WHEREAS, Defendant has moved its industrial operations from the facility located in  
4 Tacoma, Washington that is the subject of this lawsuit to a new facility located in Tumwater,  
5 Washington, and has undertaken, and is implementing, measures to further ensure compliance  
6 with the Clean Water Act at this new facility and to address issues raised in the notices of intent  
7 to sue served by Plaintiff; and

9 WHEREAS, Defendant ceased all industrial activities at the facility that is the subject of  
10 this lawsuit before the commencement of the lawsuit, and Defendant took action to terminate the  
11 regulation of stormwater discharges from this facility soon after receipt of Plaintiff's notice of  
12 intent to sue; and

14 WHEREAS, Plaintiff and Defendant agree that settlement of these matters is in the best  
15 interest of the parties and the public, and that entry of this Consent Decree without additional  
16 litigation is the most appropriate means of resolving these actions; and

18 WHEREAS, Plaintiff and Defendant, by their authorized counsel and without trial or  
19 final adjudication of the issues of fact or law, with respect to Plaintiff's claims or allegations,  
20 consent to the entry of this Consent Decree in order to avoid the risks of litigation and to resolve  
21 the controversy between them.

23 NOW THEREFORE, without trial of any issue of fact or law, and without admission by  
24 the Defendant of the facts or violations alleged in the Complaint, and upon consent of the parties,  
25 and upon consideration of the mutual promises herein contained, it is hereby

27 ORDERED, ADJUDGED AND DECREED as follows:

28 1. This Court has jurisdiction over the parties and subject matter of this action;  
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1           2.     The undersigned representative for each party certifies that he is fully authorized  
2 by the party or parties whom he represents to enter into the terms and conditions of this Consent  
3 Decree and to legally bind the party or parties and their successors in interest to it.

4           3.     This Consent Decree shall apply to, and be binding upon, the parties, and upon  
5 the successors and assigns of the parties.  
6

7           4.     This Consent Decree shall apply to Defendant's operation and/or oversight of its  
8 former facility located at or about 459 East 15t Street, Building 2, Tacoma, Washington 98421  
9 (the "former facility") and its new facility located at or about 3215 SW Cougar Lane, Tumwater,  
10 Washington 98512 (the "new facility").  
11

12           5.     This Consent Decree constitutes a full and complete settlement of the claims  
13 alleged in the Complaint in this case and all other claims known and unknown existing as of the  
14 date of entry of this Consent Decree, that could be asserted under the Clean Water Act, 33  
15 U.S.C. §§ 1251-1387, arising from operations of the former facility identified in paragraph 4 of  
16 this Consent Decree.  
17

18           6.     This Consent Decree shall not constitute evidence in any proceeding, an  
19 admission or adjudication with respect to any allegation of the Complaint, any fact or conclusion  
20 of law with respect to any matter alleged in or arising out of the Complaint, or the admissions or  
21 evidence of any wrongdoing or misconduct on the part of the Defendant or its successor.  
22

23           7.     In full and complete satisfaction of the claims covered by the Complaint filed in  
24 this case and all other claims covered by this Consent Decree, as described in Paragraph 5,  
25 Defendant agrees to abide by and be subject to the following terms and conditions:  
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1 a. Defendant shall comply fully with all conditions of its National Pollutant  
2 Discharge Elimination System Permit No. SO3-009171 (the "NPDES permit") regarding  
3 industrial operations at the new facility and any successor, modified, or replacement permit;

4 b. Defendant shall, for a period of two years beginning on the date that this  
5 Consent Decree is entered by the Court, forward copies to Plaintiff of all written or electronic  
6 communications between Defendant and the Washington Department of Ecology concerning  
7 Defendant's compliance with the NPDES permit and the Clean Water Act regarding the new  
8 facility, including but not limited to Discharge Monitoring Reports, Level One, Two, or Three  
9 response reports, reports required by similar adaptive management requirements in future  
10 versions of the NPDES permit, correspondence, and inspection reports. These copies shall be  
11 forwarded to Plaintiff on a quarterly basis and not later than the twentieth day following the end  
12 of each calendar quarter;  
13  
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15 8. Not later than thirty days after the date of entry of this Decree, Defendant shall  
16 make a payment in the amount of \$500 (FIVE HUNDRED DOLLARS) to Stewardship Partners  
17 for the Salmon-Safe Farming Certification and Labeling Program for the Commencement Bay  
18 Watersheds that is described in Attachments A and B to this Decree. Such payment shall be  
19 made by check payable and mailed to Stewardship Partners, 1411 Fourth Avenue, Suite 1425,  
20 Seattle, Washington 98101, and shall bear the notation "Puget Soundkeeper Alliance v. Taylor  
21 Equipment and Machine Tool Corporation, Clean Water Act Settlement," with a copy to  
22 Plaintiff.  
23  
24

25 9. Within 30 days of the entry of this Consent Decree, Defendant shall pay  
26 Plaintiff's reasonable attorney and expert fees and costs in the amount of \$6,500 (SIX  
27 THOUSAND FIVE HUNDRED DOLLARS) by check payable and mailed to Smith & Lowney,  
28  
29

1 PLLC, 2317 East John St., Seattle, WA 98112, attn: Richard A. Smith, in full and complete  
2 satisfaction of any claims Plaintiff may have under the Clean Water Act for fees and costs.

3 10. The Court shall retain jurisdiction over this matter and allow this case to be  
4 reopened without filing fee for the purpose of enabling the parties to apply to the Court for any  
5 further order that may be necessary to construe, carry out, enforce compliance and/or resolve any  
6 dispute regarding the terms or conditions of this Consent Decree until termination of the Consent  
7 Decree per paragraph 12. In the event of a dispute regarding implementation of, or compliance  
8 with, this Consent Decree, the parties shall first attempt to informally resolve the dispute through  
9 meetings between the parties by serving written notice of request for resolution to the parties and  
10 their counsel of record. If no resolution is reached within thirty (30) days from the date that the  
11 notice of dispute is served, the parties may resolve the dispute by filing motions with the court.  
12

13 11. The parties recognize that no consent judgment can be entered in a Clean Water  
14 Act suit in which the United States is not a party prior to 45 days following the receipt of a copy  
15 of the proposed consent judgment by the U.S. Attorney General and the Administrator of the  
16 U.S. EPA pursuant to 33 U.S.C. § 1365(c)(3). Therefore, upon the signing of this Consent  
17 Decree by the parties, Plaintiff shall serve copies of it upon the Administration of the U.S. EPA  
18 and the Attorney General.  
19

20 12. This Consent Decree shall take effect on the date it is entered by the Court. This  
21 Consent Decree shall terminate sixty (60) days following completion of all obligations under it.  
22

23 13. This Consent Decree may be modified only upon the written consent of the  
24 parties and the approval of the Court.  
25

26 14. If for any reason the Court should decline to approve this Consent Decree in the  
27 form presented, this Consent Decree and the settlement embodied herein shall be voidable at the  
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1 sole discretion of either party. The parties agree to continue negotiations in good faith in an  
2 attempt to cure any objection raised by the Court to entry of this Consent Decree.

3 15. Notifications or copies required by this Consent Decree to be made to Plaintiff  
4 shall be mailed to Puget Soundkeeper Alliance, 5309 Shilshole Ave., #215, Seattle, WA 98107.  
5 Notifications required by this Decree to be made to Defendant shall be mailed to Taylor  
6 Equipment Machine and Tool Corporation, 3215 SW Cougar Lane, Tumwater, Washington  
7 98512.  
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9 Dated and entered this 22<sup>nd</sup> day of April, 2008  
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11   
12 RONALD B. LEIGHTON  
13 UNITED STATES DISTRICT JUDGE  
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1 PUGET SOUNDKEEPER ALLIANCE

2 Signature: 

3 Title: Puget Soundkeeper

4 Dated: 3/5/08

5 TAYLOR EQUIPMENT MACHINE AND TOOL CORPORATION

6 Signature: 

7 Title: of Attorneys for Defendant

8 Dated: \_\_\_\_\_

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**Project Title: South Sound Salmon Certification**

**Applicant Organization:** Stewardship Partners

**Mission Statement:** Stewardship Partners is a 501(c)(3) non-profit organization that helps private landowners restore and preserve the natural landscapes of Washington State.

We do this by promoting and implementing incentive-based programs that encourage landowners to participate in fish and wildlife conservation and restoration activities while simultaneously meeting their economic needs through sustainable land management.

**Contact/Title:** David Burger

**Mailing address:** 1411 4<sup>th</sup> Ave., Suite 1425

**Phone number:** (206)292-9875

**Email address:** db@stewardshippartners.org

**Website address:** www.stewardshippartners.org

**Organization Budget for 2007:** \$592,000

**Amount requested:** \$500

**501 (c) (3) Status:** Stewardship Partners is a 501(c)(3) non-profit organization.

**Project summary:**

*Purpose, rationale, and need for the project:*

Agricultural practices in the Puyallup Valley, the Carbon River Valley, and the White River Valley have a direct impact on water quality flowing into Commencement Bay. Conventional farming practices could have a particularly harmful impact on declining populations of Puget Sound salmon. For example, erosion and runoff from fields brings silt into the river system clogging salmon spawning beds; chemicals used on farms wash into streams, decreasing fish survival and reproduction; excessive irrigation can deplete in-stream water supplies. Additionally, lack of vegetation along stream banks causes an increase in stream temperature and absence of habitat structures for juvenile and adult salmon. Because of this impact, farmers need incentives and assistance to adopt best management practices that protect water quality and habitat. The Salmon-Safe certification program recognizes farmers who adopt conservation practices that help protect rivers, streams and the Sound itself, and helps market and promote participating farms.

*Project Plan:*

Stewardship Partners, in collaboration with the Oregon based Salmon-Safe Inc., is implementing a Salmon-Safe certification and labeling program for Puget Sound area farmers. The well recognized "seal of approval" offers credibility, exposure, and marketing opportunities for participating farms. To date over 40 Puget Sound farms are participating in the program. The certification process focuses on the degree to which a farms' operation is compatible with best management practices for avoiding harm to stream ecosystems. Practices included in the comprehensive assessment include six primary categories: riparian and wetland management, water use management, erosion and sediment control, chemical use management, animal management, and biodiversity practices. Stewardship Partners helps connect participating landowners with the resources available to improve practices in these areas.

This grant will be used to expand Salmon-Safe Agriculture in the watersheds that empty into Commencement Bay. The Salmon-Safe project consists of outreach and recruitment to participating farmers, coordination of Salmon-Safe assessments, and a marketing, education and promotion campaign targeting area consumers. We have begun this process by certifying Wilcox Farms, a major regional provider of dairy and eggs. The goals of the program are to develop partnerships between farmers, organizations, businesses, and agencies to engage in collaborative conservation and restoration efforts that protect water quality and habitat in local watersheds; support the livelihood of local farms by providing marketing and promotional opportunities; and provide educate the public about the opportunities to support local farmers who provide protect water quality while offering healthy sustainably-produced food.

**Activities:**

We will conduct the following activities:

- Develop collaborative partnerships with local organizations and agencies that will help conduct outreach and recruitment to landowners, assist in Salmon-Safe marketing for area farms, and help improve farming practices on-the ground.
- Recruit a minimum of 6 Pierce County farms to participate in the Salmon-Safe certification process. In order to achieve this, we will conduct outreach to a minimum of 20 farms.



- Conduct Salmon-Safe certification assessments. Assessments are done utilizing qualified consultants with expertise in both sustainable agriculture and aquatic ecology.
- Assist participating farms in identifying service providers and programs to assist with habitat restoration projects, farm planning, cost-sharing opportunities, and marketing support.
- Produce marketing and promotional materials to assist participating farms in 'telling their story' and educating the public.
- Assist in marketing and promotional activities.
- Conduct media outreach to promote local Salmon-Safe farms. We will pitch stories to key media outlets, including local and regional newspapers and TV news.
- Provide education to residents throughout Pierce County about opportunities to support local conservation oriented farming that protects habitat, provides healthy food, and opportunities to get directly involved.

**Outcomes:**

- Collaborative partnerships with 3 Pierce County organizations/service providers
- 6 Salmon-Safe certified farms receiving economic, marketing, and PR benefits
- On the ground habitat restoration projects and conservation practices improvement
- Marketing materials (signage, banners, brochures, stickers, point of purchase materials)
- 1 retail partner promoting Salmon-Safe farms in-store
- Connection between consumers and local farms providing healthy food and opportunities for volunteers on salmon habitat restoration projects

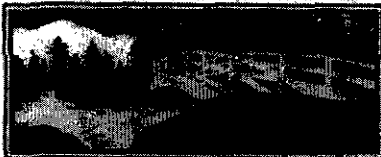
**Timetable:**

Jan - Feb	Meet with project partners and establish joint goals and strategy
March - April	Recruitment and outreach to participating farmers
May	Conduct Salmon-Safe certification assessments
June	Produce and provide marketing and promotional materials
June- July	Follow-up with landowners about conservation opportunities
July - Sept	Marketing and education -attendance at area events, etc.
Sept - Oct	Media outreach
Nov- Dec	Program evaluation

<b>Project Budget</b>	<b>Total</b>	<b>Request</b>
Salaries	\$32,000	0
Fringe Benefits	\$ 4,100	0
Consultants ( <i>Farm Assessment</i> )	\$10,000	0
Travel	\$2,500	0
Equipment	\$3,000	\$500
Supplies	\$400	0
Telephone	\$500	0
Evaluation	\$5,000	0
Overhead	\$7,500	0
Other ( <i>marketing materials and promotions</i> )	\$12,000	0
<b>TOTAL</b>	<b>\$77,000</b>	<b>\$500</b>

Note: If only a portion of the funds are received, we will scale back the promotional and marketing activities associated with the program, but will still be able to meet our overall goals.

## STEWARDSHIP PARTNERS



Helping Landowners Preserve the Environment

December 7, 2007

Katie Kolarich  
Program Coordinator  
Puget Soundkeeper Alliance  
5309 Shilshole Ave. NW, Suite 215  
Seattle, WA 98107

Dear Katie:

Stewardship Partners has reviewed the draft consent decree in the matter of Puget Soundkeeper Alliance v. Taylor Equipment and Machine Tool Corporation and will review the final consent decree once entered by the Court. Stewardship Partners has agreed to accept \$500 from Taylor Equipment and Machine Tool Corporation as part of the settlement in the above-referenced matter, and will use such funds for its South Sound Salmon Safe Certification project. Stewardship Partners will not use any money it receives under the consent decree for political lobbying activities. Steward Partners will submit a letter to the Court, Department of Justice, and the parties, describing how the funds have been spent.

Sincerely,

  
David Burger  
Executive Director

### Board of Directors

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Chair

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Bryant Christie, Inc.

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